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October 4, 2021

Via ECF

The Honorable Analisa Torres,
United States District Court for the
Southern District of New York,
500 Pearl Street,
New York, New York 10007-1312

The Honorable Robert W. Lehrburger,
United States District Court for the
Southern District of New York,
500 Pearl Street,
New York, New York 10007-1312.

Re: *Chen-Oster, et al. v. Goldman, Sachs & Co., et ano.,*
No. 10 Civ. 6950 (AT) (RWL) (S.D.N.Y.)

Dear Judge Torres and Judge Lehrburger:

On behalf of Defendants, I respectfully write to request confirmation that Defendants may file their response to Plaintiffs' letter motion ("Letter Motion"), dated October 1, 2021 (ECF No. 1273) by October 8, 2021 (five business days from Plaintiffs' filing). Regrettably, Plaintiffs did not meet and confer with Defendants about the matters raised in their Letter Motion or discuss a schedule for Defendants to respond.

In their Letter Motion, Plaintiffs ask the Court to order the extraordinary relief of tolling the statute of limitations until 90 days following a "class liability determination" or, alternatively, for eight months, for (i) current and former Goldman Sachs professionals who agreed to arbitration in binding contracts and who were excluded from the class in Judge Lehrburger's March 26, 2020 Order (ECF No. 983 ("Arbitration Order")), and (ii) unidentified professionals who executed Equity Award Agreements who may elect not to opt out of arbitration through the notice procedure provided for in the Arbitration Order at some later date (the "Notice"). Plaintiffs also ask the Court to stay the Notice indefinitely until the Court resolves the various requests in their Letter Motion. Plaintiffs do not cite a single authority supporting the extraordinary relief that they request, and Defendants are aware of no authority supporting that relief.

Because the Letter Motion implicates the Arbitration Order and the Notice, both of which are before Judge Lehrburger, the Letter Motion should have been directed to Judge Lehrburger. (June 14, 2011 Order (ECF No. 71) at 1 (referring all "non-dispositive pretrial motions" to magistrate judge).) The Letter Motion does not comply with Judge Lehrburger's directive that the parties meet and confer regarding the "form and method" of the Notice.

The Honorable Analisa Torres
The Honorable Robert W. Lehrburger

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(Arbitration Order at 88.) When the Letter Motion was filed, without alerting Defendants, the parties were actively engaged in this process.

Finally, the Letter Motion contemplates that class counsel will use confidential contact information produced during this litigation for what appears to be business development purposes. (See Letter Motion at 4 (requesting extension in order to “contact[]” current and former Goldman Sachs professional who were excluded from the class on March 26, 2020 and to “draft individual retainer agreements”).) This is improper under the Protective Order entered March 18, 2011 (ECF No. 51 at ¶ 1 (“All discovery shall be used solely for the purposes of prosecuting and/or defending this action.”)). Defendants respectfully request an order barring class counsel from engaging in such communications without seeking relief from the Protective Order. Class counsel has otherwise confirmed to Defendants that they will not initiate any communications with Equity Award Professionals in advance of the Notice. Defendants object to any such communications after the Notice is disseminated and will address those objections to Judge Lehrburger in connection with approval of the Notice.

Respectfully,

/s/ Robert J. Giuffra, Jr.

Robert J. Giuffra, Jr.
Sullivan & Cromwell LLP

cc: All parties of record (by ECF)